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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,300	04/13/2001	David Michael Kimble	50P3984.01	4749
26338	7590	04/06/2006	EXAMINER	
MERLE W. RICHMAN, III P.O. BOX 3333 LA JOLLA, CA 92038			HUYNH, SON P	
			ART UNIT	PAPER NUMBER
			2623	
DATE MAILED: 04/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/835,300

Applicant(s)

KIMBLE, DAVID MICHAEL

Examiner

Son P. Huynh

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 114-117 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 114-117 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/8/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 114-117 have been considered but are moot in view of the new ground(s) of rejection.

Claims 1-113 have been canceled.

Claim Objections

2. Claims 116 is objected to because of the following informalities:

Claim 116, line2 recites "the user's browser" should be replaced as – the user's Web browser—

Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 114- 115 and 117 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fries (US 6,317,885) in view of McCoy et al. (US 2005/0125823).

Regarding claim 114, Fries discloses a method for providing video program, comprising:

using a TV system to present to a user's web Browser a list of links, each link corresponding to a respectively piece of video program (using TV system, including a set top box (28) and television 30) to present to a user's web Browser 62 pages such as program guide page comprises a list of links, each link on the program guide page corresponding to a respectively piece of video program – see including, but are not limited to, figures 1, 3, 6, col. 6, lines 35-65; col. 18, lines 6-22);

receiving a selection of a link (receiving a selection of a link to a video program – see including, but is not limited to, col. 18, lines 6-22);

in response to the selection, selecting a protocol file to the TV system, the protocol file including a TV channel corresponding to the video program associated with the selection (in response to selection to link to a video program, selection protocol file that contains meta-data and PSI data for displaying the video program corresponding to the selected link – see including, but are not limited to, col. 2, lines 30-38, 7, lines 7-52, col. 8, line 50-col. 11, line 37, col. 18, lines 6-23, col. 19, lines 30-63, col. 22, line 61-col. 23, line 15. The protocol file inherently including a TV channel so that the TV channel corresponding to video program associated to the link it tuned to);

causing a channel tuner of the TV system to tune to the TV channel corresponding to the video program associated with the selection (causing channel

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tuner such as in band tuner 70 of the set top box to tune to the TV channel corresponding to the video program associated with the selected link – see including, but are not limited to, figure 3, col. 9, lines 40-50; col. 13, lines 57-64; col. 18, lines 7-22). Fries further discloses the Browser 62 displays program guide allows a user to link to a currently available program, add the program to a timer for timed viewing thereof, and/or prompt the user to purchase a pay per view event (col. 13, lines 58-64; col. 18, lines 7-22). However, Fries does not specifically disclose providing video on demand wherein the list of links (in the program guide) is video on demand list.

McCoy et al., in an analogous art, discloses providing video on demand to user in respond to user selection of a link on the video on demand list (see including, but are not limited to, figures 6-9, paragraphs 0008, 0066, 0073). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fries to use the teaching as taught by McCoy in order to allow users to order videos for immediately delivery to the home (paragraph 0003), and furthermore, to allow user to navigate and select a program for immediately delivery by selection of a link on the screen thereby improve convenience for users.

Regarding claim 115, Fries in view of McCoy teaches the TV system as discussed in claim 114. Fries further disclose the TV system includes a set top box (STB 28, figures 1,3), the STB presenting to the user's Web browser (62) the list of links (figures 3, 6-8, col. 6, lines 35-55, col. 13, lines 58-64).

Regarding claim 117, the limitations of the system as claimed that correspond to the limitations of the method as claimed in claim 114 are analyzed as discussed in the rejection of claim 114.

Fries further discloses set top box (28) and television 30 (figure 1, 3, are interpreted as “a set top box” and “a display”;

Browser (62) presenting pages including plurality of links – figures 3, 6, col. 13, lines 58-64) is interpreted as “a Web browser presenting images on the display;

cable head end 22 (figures 1, 2) is interpreted as “a television head end”.

5. Claim 116 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fries (US 6,317,885) in view of McCoy et al. (US 2005/0125823) as applied to claim 114 above, and further in view of Rainville et al. (US 2002/0069411).

Regarding claim 116, Fries in view of McCoy discloses a method as discussed in the rejection of claim 114. Fries further discloses the set top provide video data and Internet data such as meta-data, PSI data, etc. to browser 62 for displaying on the on the screen (see including, but are not limited to, figures 3, 6, col. 6, lines 1-65) is interpreted as the set top box provides an Internet layer and a video layer to the user's browser. Fries further discloses the protocol file including meta-data that indicated size, position, color, shape, etc. of screen (see including, but are not limited to, col. 7, line 12-col. 8, line 6, col. 10, line 33-col. 11, line 50, col. 20, line 32-col. 30, line 52). Thus, the Internet

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portion (page image) has a size and screen location specified in the protocol file (by meta-data). McCoy also discloses "Browser" overlay allows a user to continue to watch a program on a particular channel (e.g. channel 2) while browsing for information on programs that are playing on other channels at other time (paragraphs 0066-0067). However, neither Fries nor McCoy specifically disclose rendering a portion of the Internet layer transparent to establish a transparent Internet portion, the video layer being presented in the transparent Internet portion.

Rainville discloses rendering a portion of the Internet layer (World Wide Web pages) transparent to establish a transparent Internet portion, the video layer (television video signals) being presented in the transparent Internet portion (see abstract, paragraph 0008). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Fries and McCoy to use the teaching as taught by Rainville in order to allow simultaneously display of all of two images, TV and WWW graphics, at the same time paragraphs 0007-0008).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wagner et al. (US 6,600,496) discloses interactive graphical user interface for television set top box.

Jerding et al. (US 6,817,028) discloses reduced screen control system for interactive program guide.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son P. Huynh whose telephone number is 571-272-7295. The examiner can normally be reached on 9:00 - 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

It is noted that Group Art Unit 2611 has been changed to Group Art Unit 2623.

SPH
March 22, 2006


**HAITRAN
PRIMARY EXAMINER**